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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/743,520	CALABRIA ET AL.
	Examiner	Art Unit
	DANIEL SORKOWITZ	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 April 2010*.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-21, 23-52 and 55-60* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-21, 23-52 and 55-60* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Notice to Applicant

This communication is in response to the RCE for application 10/743520 is in response to Applicant's response from 4/16/10. Claims 22 and 53-54 have been cancelled by Applicant. Claims 1-21, 23-52 and 55-60 have been examined.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/16/2009 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent
> therefor, subject to the conditions and requirements of this title.

1.   **Claims 1-21, 23-52 and 55-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Regarding claims 1-21, 23-30, 40-52, 55-56, and 58-60 based on Supreme Court precedent, a method/process claim must (1) be tied to a particular machine or apparatus (see at least Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least Gottschalk v. Benson, 409 U.S. 63, 71 (1972)). A method or process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here the claims fails to meet the above requirements because the steps are neither tied to a particular machine or apparatus nor physically transform underlying subject matter (such as an article or materials) to a different state or thing.

Regarding claims 31-39, these claims recite an apparatus that appears to comprise merely software modules that are not clearly embodied on a computer

readable medium. However, this is just descriptive material (e.g. software), which is non-statutory under 35 USC 101. MPEP 2106.01 states that "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. This descriptive material is non-statutory when claimed as descriptive material *per se*. When functional descriptive material is recorded on a computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Regarding claim 57, 1-21, 23-52 and 55-60 references a "computer program product including a computer usable medium having computer readable program code embodied in the medium for causing:" The claim does not include a statutory computer storage medium and is seen as functional descriptive material (software per se). It is further noted that the specification (page 8 paragraph 25) in this instance is silent, but broadest reasonable interpretation of any computer usable medium includes "signals" and "carrier waves". Signals are not a statutory type of storage media (In re Nuijten, 84 USPQ2d 1495 and "Subject Matter Eligibility of Computer Readable Media" at http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made

in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

2. **Claims 40-41 are rejected under 35 U.S.C. 102 (e) as being anticipated by US Patent Application Publication Number 2003/0105677 by Skinner (hereinafter "Skinner ").**

Regarding claim 40,   Skinner discloses

a) selecting at least one candidate advertisement associated with an

advertiser for subsequent placement in at least one publisher web page

(figure 2 #42-44, figure 3 #50, page 2 paragraph 14 and 18 and page 3

paragraph 37-43, referred to as   search terms related to an advertiser's

service or product and linked to web site, for placement in a search engine

web page);

b) selecting a plurality of candidate publisher web pages, wherein each

candidate publisher web page is associated with one or more candidate

advertisement selected in a) and includes one or more auctioned

advertisement positions (figure 2 #42-44, figure 3 #78, page 1 paragraph

12 and page 3 paragraph 39-40, referred to as   search terms related to

an advertiser's service or product and linked to web site, for placement in

multiple search engine web pages);

c) creating an advertisement-publisher web page pair for each candidate

advertisement selected in a) and each candidate publisher web page

selected in b) (figure 2 #42-44, figure 3 #78, page 1 paragraph 12 and

page 3 paragraph 39-40, referred to as   search terms related to an

advertiser's service or product and linked to web site, for placement in

multiple search engine web pages);

d) estimating a click-through rate for each advertisement-publisher web

page pair created in c) (page 3 paragraph 43);

e) calculating a return on advertising investment (<u>ROAI</u>) for each

advertisement-publisher web page pair created in c) based at least in part

on the corresponding click-through rate estimated in d) (page 4

paragraph 44-60);

f) calculating an optimized bid for each advertisement-publisher web page

pair created in c) based at least in part on the corresponding ROAI

calculated in e)   (page 4 paragraph 44-48, referred to as calculated max

bid); and

g)automatically submitting the optimized bids for each advertisement-

publisher web page pair to the competitive bidding process for placement

of each candidate advertisement selected in b) (page 2 paragraph 14 -20).

Regarding claim 41, Skinner discloses

 tracking the advertisement-publisher web page pair at the time a user

clicks on the corresponding advertisement in the corresponding publisher

web page   (page 3 paragraph 37-43);

tracking a revenue event and corresponding revenue amount associated

with sales through an advertiser web site associated with the

corresponding publisher web page (page 3 paragraph 37-43); and

associating the tracked advertisement-keyword pair clicks with the tracked

revenue events and corresponding revenue amounts (page 3 paragraph

37-43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the

basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as
set forth in section 102 of this title, if the differences between the subject matter sought to be
patented and the prior art are such that the subject matter as a whole would have been
obvious at the time the invention was made to a person having ordinary skill in the art to which
said subject matter pertains. Patentability shall not be negatived by the manner in which the
invention was made.

3. **Claims 1-21, 23-39, 42-52, 55- 59 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over US Patent Application Publication Number

2003/0105677 by Skinner (hereinafter "Skinner ")in view of US Patent

Application Publication Number 2003/0055816 by Paine.

Regarding claims 1 and 57, Skinner discloses

a) selecting at least one candidate advertisement associated with an

advertiser for subsequent placement in search results lists (page 2

paragraph 14, advertisement referred to as keyword or search term used

to market advertiser's product in online media marketing (OMM));

b) selecting an initial plurality of candidate keywords (figure 2 #42-44,

figure 3 #50, page 2 paragraph 14 and 18 and page 3 paragraph 37-43,

referred to as   search terms related to an advertiser's service or product

and linked to web site);

d) creating an advertisement-keyword pair for each candidate

advertisement and each candidate keyword, wherein each advertisement-

keyword pair includes one or more keywords of the expanded plurality of

candidate keywords (page 3 paragraph 37-39, referred to as search term

paired with advertiser's listing, for search engine);

e) estimating a click-through rate for each advertisement-keyword pair

(page 3 paragraph 43);

f) calculating a return on advertising investment (ROAI) for each

advertisement-keyword pair based at least in part on a click-through rate

for each advertisement-keyword pair (page 4 paragraph 44-48, referred to

as calculated max bid);

g) calculating an optimized bid for each advertisement-keyword pair

created in d) based at least in part on the corresponding ROAI calculated

in f (page 4 paragraph 44-60); and

h) automatically submitting the optimized bids for each advertisement-

keyword pair to the competitive bidding process for placement of each

candidate advertisement in search results lists generated in response to

search queries comprising at least one keyword of the expanded plurality

of candidate keywords (page 2 paragraph 14 -20, page 3 paragraph 37-

39, advertisement-keyword pair referred to as search term paired with advertiser's listing, for search engine). Skinner does not explicitly disclose c) expanding the initial plurality of candidate keywords based at least in part on the at least one candidate advertisement. However, Paine discloses expanding the initial plurality of candidate keywords based at least in part on the at least one candidate advertisement (page 2 paragraph 13, candidate advertisement referred to as advertisers web site). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Skinner to expanding the initial plurality of candidate keywords based at least in part on the at least one candidate advertisement. Paine discloses that because different users will use different keywords to find the same information, it is important for an advertiser to bid on a wide variety of search terms in order to maximize traffic to his site (page 1 paragraph 4).

Regarding claim 2, The system of Skinner may be used multiple times and for multiple keywords.

Regarding claim 3, Skinner discloses keywords based at least in part on information provided by the advertiser (figure 3 #50, page 3 paragraph 37-43).

Regarding claim 4, Skinner does not explicitly disclose wherein the
expanded plurality of candidate keywords are automatically generated at
least in part based at least in part from the initial plurality of candidate
keywords which is based at least in part on information provided by the
advertiser. However, Paine discloses wherein the expanded plurality of
candidate keywords are automatically generated at least in part based at
least in part from the initial plurality of candidate keywords which is based
at least in part on information provided by the advertiser (figure 10 #1002-
1014, page 32 paragraph 93-94). Therefore it would have been obvious
to one of ordinary skill in the art at the time of the invention to modify the
system of Skinner so the expanded plurality of candidate keywords are
automatically generated at least in part based at least in part from the
initial plurality of candidate keywords which is based at least in part on
information provided by the advertiser. Paine discloses that because
different users will use different keywords to find the same information, it is
important for an advertiser to bid on a wide variety of search terms in
order to maximize traffic to his site (page 1 paragraph 4), and information
provided by the advertiser is a good place to start.

Regarding claims 5-6, Skinner does not explicitly disclose keywords
automatically generated based at least in part from content in an

advertiser web site. However, Paine discloses keywords automatically

generated based at least in part from content in an advertiser web site

(page 2 paragraph 13, candidate advertisement referred to as advertisers

web site). Therefore it would have been obvious to one of ordinary skill in

the art at the time of the invention to modify the system of Skinner so

keywords are automatically generated based at least in part from content

in an advertiser web site.   Paine discloses that because different users

will use different keywords to find the same information, it is important for

an advertiser to bid on a wide variety of search terms in order to maximize

traffic to his site (page 1 paragraph 4), and information provided by the

advertiser's web site is a good place to start.

Regarding claims 7 and 32, Skinner does not explicitly disclose

keywords automatically generated based at least in part from two or more

of at least one keyword provided by the advertiser, content in an

advertiser web site, and content of the at least one candidate

advertisement . However, Paine discloses keywords automatically

generated based at least in part from two or more of at least one keyword

provided by the advertiser, content in an advertiser web site, and content

of the at least one candidate advertisement (figure 10 #1002-1014, page

32 paragraph 93-94). Therefore it would have been obvious to one of

ordinary skill in the art at the time of the invention to modify the system of

Skinner so keywords are automatically generated based at least in part

from two or more of at least one keyword provided by the advertiser,

content in an advertiser web site, and content of the at least one candidate

advertisement .   Paine discloses that because different users will use

different keywords to find the same information, it is important for an

advertiser to bid on a wide variety of search terms in order to maximize

traffic to his site (page 1 paragraph 4), and information provided by the

advertiser's web site, and the advertiser provided keywords are good

places to start.

Regarding claim 8, Skinner discloses the click-through rate for each

advertisement-keyword pair is estimated by placing the corresponding

candidate advertisement in the search results list on a trial basis (page 3

paragraph 38-39 and 43, referred to as a given period of time, day month,

or year).

Regarding claim 9, Skinner discloses the click-through rate for each

advertisement-keyword pair is estimated based at least in part on

the relevance of content in the corresponding candidate advertisement

to the keywords for the corresponding advertisement-keyword pair (page

3 paragraph 37-44).

Regarding claim 10, Skinner discloses the estimated click-through rate for each advertisement-keyword pair is periodically revised based on actual search queries, search results lists, and click-throughs corresponding to the advertisement-keyword pair (referred to as a continuous function pair   (page 3 paragraph 37-43).

Regarding claims 11 and 33, Skinner discloses

 tracking the advertisement-keyword pair at the time a user clicks on the corresponding advertisement in the search results list (page 3 paragraph 37-43); tracking a revenue event and corresponding revenue amount associated with sales through an advertiser web site associated with the search results list (page 3 paragraph 37-43);; and associating the tracked advertisement-keyword pair clicks with the tracked revenue events and corresponding revenue amounts (page 3 paragraph 37-43).

Regarding claim 12, Skinner discloses wherein tracking the advertisement-keyword pair is accomplished at least in part by using one or more of a tracking URL, a form, and a cookie (page 3 paragraph 41).

Regarding claim 13, Skinner discloses the revenue event includes at least one of a sale, a lead generation, and a form submission (page 3 paragraph 41).

Regarding claims 14 and 16, Skinner discloses the revenue event and

corresponding revenue amount are stored in a database associated with

the advertiser web site (figure 2, page 3 paragraph 41).

Regarding claim 15, Skinner discloses an image bug is placed on

the advertiser web site and the revenue event and corresponding revenue

amount are stored in a service provider web site (figure 2, page 3

paragraph 41).

Regarding claims 17-18 and 34, Skinner discloses tracked

advertisement-keyword pair clicks and tracked revenue events and

revenue amounts are received by web services (figure 2 page 3

paragraph 41-43).

Regarding claims 19 and 35, Skinner discloses considering the

relevance of the advertiser web site to the advertisement-keyword

combination (page 5 paragraph 62).

Regarding claims 20 and 36, Skinner discloses considering an

experience level in a user associated with submission of the search query

and selection of an advertisement in the corresponding search results list,

wherein the experience level is in relation to at least one of the advertisement in the advertisement-keyword combination, the keyword in the advertisement-keyword combination, the advertiser, the advertiser web site, products associated with the advertiser, and services associated with the advertiser (figure 2 page 3 paragraph 41-43, referred to as prior visits and purchases from advertiser web site).

Regarding claim 21, Skinner discloses calculating ROAI based at least in part on information received from the advertiser (figure 3 #50, page 3 paragraph 37-43).

Regarding claims 23 and 37, Skinner discloses optimized bids calculated in q) are optimized based at least in part on optimization of ROAI for at least one of the candidate advertisement and the one or more candidate keywords associated with the corresponding advertisement-keyword pair (abstract).

Regarding claims 24 and 38, Skinner discloses recommending an optimal set of bid combinations with respect to profitability for the advertiser creating a corresponding automatic insertion order for placing the advertisement-keyword combinations ((abstract).

Regarding claims 25 and 39, Skinner discloses bid combinations

is sorted by a product of the click-through rate and ROAI and insertion

orders are placed in the sorted order (page 4 paragraph 44-47 and 58).

Regarding claims 26-27, Skinner discloses that the advertiser constrains

the set of bid combinations by at least one of an advertisement budget,

maximum budget, and a capacity budget (page 2 paragraph 14 and 18,

referred to as staying under the maximum bid amount desired for each

item, and controlling advertising budget).

Regarding claim 28, Skinner discloses an advertiser constraint is a

desired number of click-through for a predetermined period of time (page

3 paragraph 43 and page 4 paragraph 54-60).

Regarding claim 29, Skinner discloses the advertiser constraint is

at least one of a multiplier of ROAI and a desired profit margin with

respect to ROAI (page 4 paragraph 51-60).

Regarding claim 30, Skinner discloses the advertiser constraint is

at least one of a maximum budget amount for a predetermined period of

time, a desired number of click-throughs for a predetermined period of

time, a multiplier of ROAI, and a desired profit margin with respect to

ROAI ((page 3 paragraph 43 and page 4 paragraph 51-60).

Regarding claims 31, Skinner discloses

an advertisement selection logic for selecting at least one candidate

advertisement associated with the advertiser for subsequent placement in

search results lists (figure 3, page 2 paragraph 14, advertisement referred

to as search term used to market advertiser's product in online media

marketing (OMM));

a keyword identification system in communication with the advertisement

selection logic (figure 2 #40-44), for selecting an initial plurality of

candidate keywords (figure 2 #42-44, figure 3 #50, page 2 paragraph 14

and 18 and page 3 paragraph 37-43, referred to as search terms related

to an advertiser's service or product and linked to web site);

an advertisement-keyword selection system in communication with the

advertisement selection logic and keyword identification system (figure 2

and figure 3 #66-74) for creating an advertisement-keyword pair for each

candidate advertisement selected by the advertisement selection logic and

each candidate keyword, (figure 4 #116, page 3 paragraph 37-39,

referred to as search term paired with advertiser's listing, for search

engine);

wherein each advertisement-keyword pair includes one or more keywords

of the expanded plurality of candidate keywords resulting from expansion

of the initial plurality of candidate by the keyword identification system for

estimating a click-through rate for each advertisement-keyword pair (page

3 paragraph 43), and for calculating a return on advertising investment

(ROAI) for each advertisement-keyword pair based at least in part on the

corresponding estimated click-through rate (page 4 paragraph 44-60);

and a bid determination system in communication with the advertisement-

keyword selection system (figure 2 and figure 3 #66-74) for calculating an

optimized bid for each advertisement-keyword pair created by the

advertisement-keyword selection system based at least in part on the

corresponding ROAI calculated by the advertisement-keyword selection

system (page 4 paragraph 44-60); and for automatically submitting the

optimized bids for each advertisement-keyword pair to the competitive

bidding process for placement of each candidate advertisement selected

by the advertisement selection logic in search results lists generated in

response to search queries comprising at least one keyword of the

expanded plurality of keywords resulting from expansion of the initial

plurality of candidate keywords by the keyword identification system (page

2 paragraph 14 -20, page 3 paragraph 37-39, advertisement-keyword pair

referred to as search term paired with advertiser's listing, for search

engine). Skinner does not explicitly disclose expanding the initial

plurality of candidate keywords based at least in part on the at least one

candidate advertisement selected by the advertisement selection logic, to

form an expanded plurality of candidate keywords. However, Paine

discloses expanding the initial plurality of candidate keywords based at

least in part on the at least one candidate advertisement selected by the

advertisement selection logic (page 2 paragraph 13, candidate

advertisement referred to as advertisers web site). Therefore it would

have been obvious to one of ordinary skill in the art at the time of the

invention to modify the system of Skinner to expand the initial plurality of

candidate keywords based at least in part on the at least one candidate

advertisement selected by the advertisement selection logic.   Paine

discloses that because different users will use different keywords to find

the same information, it is important for an advertiser to bid on a wide

variety of search terms in order to maximize traffic to his site (page 1

paragraph 4), and information provided by the advertiser's web site is a

good place to start.

Regarding claim 42, Skinner discloses

 a) selecting at least one candidate advertisement associated with the

advertiser for subsequent placement in search results lists (figure 2 #42-

44, figure 3 #50, page 2 paragraph 14 and 18 and page 3 paragraph 37-

43, referred to as   search terms related to an advertiser's service or

product and linked to web site);

b) selecting one or more   keywords to optimize the keyword selecting and

provide one or more optimized keywords (page 3 paragraph 37);

c) creating an advertisement-keyword pair for each candidate

advertisement selected in a) and each optimized keyword selected in b),

wherein each advertisement keyword pair includes one or more optimized

keywords (page 3 paragraph 37-39, referred to as search term paired with

advertiser's listing, for search engine (page 3 paragraph 37-39, referred to

as search term paired with advertiser's listing, for search engine);

d) calculating an optimized bid for each advertisement-keyword pair

created in c) based at least in part on the one or more optimized keywords

selected in b) (page 4 paragraph 44-60); and

e) automatically submitting the optimized bids for each advertisement-

keyword pair calculated in d) to the competitive bidding process for

placement of each candidate advertisement selected in a) in search

results lists generated in response to search queries comprising at least

one keyword of the one or more optimized keywords selected in b) (page

2 paragraph 14 -20 and page 3 paragraph 37- page 4 paragraph 60).

Skinner does not explicitly disclose b) selecting one or more   keywords

based at least in part on content of the at least one candidate

advertisement. However, Paine discloses selecting one or more

keywords based at least in part on content of the at least one candidate

advertisement (page 2 paragraph 13, candidate advertisement referred to

as advertisers web site). Therefore it would have been obvious to one of

ordinary skill in the art at the time of the invention to modify the system of

Skinner to select one or more   keywords based at least in part on content

of the at least one candidate advertisement.   Paine discloses that

because different users will use different keywords to find the same

information, it is important for an advertiser to bid on a wide variety of

search terms in order to maximize traffic to his site (page 1 paragraph 4),

and information provided by the advertiser's web site is a good place to

start.

Regarding claim 43, Skinner discloses wherein the optimized

bids calculated in d) are based at least in part on information from the

advertiser (page 2 paragraph 14 -20 and page 3 paragraph 37- page 4

paragraph 60).

Regarding claim 44, Skinner discloses the at least one

candidate advertisement selected is based at least in part on information

from the advertiser (page 3 paragraph 37-39). Skinner does not explicitly

disclose matching content of each candidate advertisement to one or

more candidate keywords, wherein the matching of content is at least

partially automated.   However, Paine discloses matching content of each

candidate advertisement to one or more candidate keywords, wherein the

matching of content is at least partially automated (page 2 paragraph 13,

candidate advertisement referred to as advertisers web site). Therefore it

would have been obvious to one of ordinary skill in the art at the time of

the invention to modify the system of Skinner to select one or more

keywords based at least in part on content of the at least one candidate

advertisement.   Paine discloses that because different users will use

different keywords to find the same information, it is important for an

advertiser to bid on a wide variety of search terms in order to maximize

traffic to his site (page 1 paragraph 4), and information provided by the

advertiser's web site is a good place to start.

Regarding claim 45, Skinner discloses optimized keywords are based at

least in part on information from the advertiser; and wherein the one or

more optimized keywords associated with each advertisement-keyword

pair in c) are based at least in part on information from the advertiser

(page 3 paragraph 37-39).

Regarding claim 46, Skinner discloses collecting information from an

advertiser web site associated with the advertisement, wherein the

advertiser web site information includes at least web site visits and web

site sales (page 3 paragraph 37-43); and determining a return on

advertising investment (ROAI) for each advertisement-keyword pair based

least in part from the advertiser web site information, wherein the

determined ROAI is considered in calculating the corresponding optimized

bid (page 4 paragraph 44-60).

Regarding claim 47, Skinner discloses receiving advertisement

management information an advertiser via an input device, wherein the

advertisement management information is considered in calculating the

optimized bids (page 3 paragraph 37- page 4 paragraph 60).

Regarding claims 48-49, Skinner discloses collecting information from a

keyword search engine that aggregates advertising, associated with the

search results list, wherein the keyword search engine information is

associated with at least one of current bids for placement of

advertisements and previous search queries, and wherein the keyword

search engine information is considered in calculating the optimized bids

(page3 paragraph 39-40 and page 4 paragraph 44-60).

Regarding claim 50, Skinner discloses collecting information from a

bidding service provider associated with the search results list, wherein

the bidding service provider information is associated with at least one of

current bids for placement of advertisements and previous search

queries, and wherein the bidding service provider information is

considered in calculating the optimized bids in (page3 paragraph 39-43).

Regarding claim 51, Skinner discloses collecting information from an

advertiser web site associated with the wherein the advertiser web site

information is considered in calculating the optimized bids (page3

paragraph 39-40 and page 4 paragraph 44-60).

Regarding claim 52, Skinner discloses collecting information from a

competitor web site associated with a competitor in relation to the

advertiser, wherein the competitor web site information is considered in

calculating the optimized bids (page 4 paragraph 48).

Regarding claim 55, Skinner discloses calculating the ROAI is based at

least in part on historical sales data from sales made on an advertiser's

website that are associated with at least one keyword of the expanded

plurality of candidate keywords and cost -per click associated with the

keyword in order to determine a value of the keyword (page 3 paragraph

40-41 and page 4 paragraph 44-60).

Regarding claim 56, Skinner discloses determining that the optimized bid associated with the given advertisement-keyword pair will not win in the competitive bidding process (page 4 paragraph 47). Skinner does not explicitly disclose performing a search query to find alternative keywords similar to the *one* or more keywords associated with the given advertisement-keyword pair. However, Paine discloses performing a search query to find alternative keywords (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Skinner to find optimized bids for alternative keywords in addition to the advertiser's designated keywords. Paine discloses that because different users will use different keywords to find the same information, it is important for an advertiser to bid on a wide variety of search terms in order to maximize traffic to his site (page 1 paragraph 4).

Regarding claim 58, Skinner discloses optimized bids calculated in s) are based at least in part on an aggressiveness setting which optimizes bidding strategy based on sales and visitor data, ROAI, current and historical bidding data (page 5 paragraph 62-68, referred to as premium placement, the bid to top rank a term, and bid for linguistic value).

Regarding claim 59, Skinner discloses collecting and analyzing bid information from at least one competitor from a website to determine competitor bid amounts (page 4 paragraph 48). Skinner does not explicitly disclose collecting and analyzing information from at least one competitor's website to select one or more competitor keywords. However, Paine discloses collecting and analyzing information from at least one competitor's website to select one or more competitor keyword (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Skinner to find optimized bids for competitor keywords in addition to the advertiser's designated keywords. Paine discloses that because different users will use different keywords to find the same information, it is important for an advertiser to bid on a wide variety of search terms in order to maximize traffic to his site (page 1 paragraph 4).

4. **Claim 60 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2003/0105677 by Skinner (hereinafter "Skinner ") in view of US Patent Application Publication Number 2003/0055816 by Paine in further view of over US Patent Application Publication Number 2004/0093296 by Phelan et al.**

Regarding claim 60, Skinner discloses determining a competitor's bid for a keyword based at least in part on the competition assessment, wherein the optimized bids calculated in g) are based at least in part on competitor bids for competitor keywords related to the one or more candidate keywords for advertisement-keyword pairs for corresponding optimized bids (page 4 paragraph 48). Skinner further discloses calculating a return on advertising investment (ROAI) for each advertisement-keyword pair keyword pair (page 4 paragraph 44-48, referred to as calculated max bid). Skinner and Paine do not explicitly disclose calculating a competitor ROAI. However, Phelen discloses Calculating and analyzing a customer's ROAI against that of competition (page 8 paragraph 101-106). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Skinner combined with Paine to include competitor ROAI in the bid optimization logic. Information about a competitor is used to develop more effective marketing.

Response to Arguments

This rejection has been amended to reflect the changes to the claim language and addresses all arguments submitted by the applicant. Therefore, the Examiner maintains the rejection to the Applicant's claims.

Applicant argues regarding claims 1 and 31 that " The Office Action

does not cite any portion of Skinner or any other reference for disclosure

of element g) of claim 1" and "the § 102 rejection of claim 1 in reliance on

Skinner is clear error on any one of at least four grounds because Skinner

does not disclose features claimed in elements a), c), (g, and h)". The

Examiner disagrees. The Examiner believes this Office Action properly

cites the references of Skinner and Paine   for a 103A rejection over

every element of claim 1. Therefore, the Examiner respectfully finds the

Applicant's argument unpersuasive.

Applicant argues regarding claims 1 and 31 element a) that "The winning

advertiser's listing in Skinner is merely a link to an advertiser's web site.

Notably, the Skinner process does not consider an actual advertisement to

be placed in the search results list as part of the bidding process.". The

Examiner disagrees. The cited section of Skinner is believed to teach

these elements, by disclosing an automated web ranking system (para

37), selecting, creating, and optimizing bids of advertisement-keyword

pairs in search results lists.   Webster's Dictionary defines advertisement

as "a public notice, so that each link to a page of a company's web site, or

even part of a page, could be reasonably interpreted to be an

advertisement. Each keyword displayed by a search engine such as

Google.com or Yahoo.com is an advertisement. For example,

"www.ibm.com", and each page, or any part viewed by a consumer, is an advertisement for IBM corporation. "IBM" as a keyword, linked or unlinked to IBM.com is also an advertisement for IBM corporation. The Examiner maintains that a link to an advertiser's web site can be reasonably broadly interpreted as an advertisement, and that the web ranking system of Skinner displays keyword advertisement pairs.

Applicant argues regarding claims 1 and 31 element c) that " the Skinner process does not consider an actual advertisement to be placed in the search results list in order to expand candidate keywords used in the bidding process. The Examiner disagrees. The cited section of Paine discloses expanding the initial plurality of candidate keywords based at least in part on the at least one candidate advertisement. Therefore, Examiner believes the combined references are still a reasonable teaching of the claimed invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 1 element g) that " the Office Action does not cite a reference for disclosure of element g) " and ", the Skinner process does not consider an actual advertisement to be placed in the search results list as a variable in calculating a bid during the bidding process ". The Examiner disagrees. The cited section of Skinner is

believed to anticipate the claim language of calculating an optimized bid

for each advertisement-keyword pair created in d) based at least in part on

the corresponding ROAI calculated in f). Skinner's optimized bids

consider the results of consumers clicking on the advertisement link and

the ROAI in the optimization logic. Therefore, Examiner believes the

combined references are still a reasonable teaching of the claimed

invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claims 1 and 31 element h) that " the Skinner

process does not consider the actual advertisement to be placed in the

search results list as part of the bidding process. Thus, the bids submitted

in Skinner are not for an advertisement-keyword pair. Accordingly, the

cited portions of Skinner do not disclose or fairly suggest element h) of

claim 1". The Examiner disagrees.   The cited section of Skinner is

believed to teach these elements, by disclosing an automated web ranking

system (para 37), selecting, creating, and optimizing bids of

advertisement-keyword pairs in search results lists.   Webster's Dictionary

defines advertisement as "a public notice, so that each link to a page of

a company's web site, or even part of a page, could be reasonably

interpreted to be an advertisement.   Each keyword displayed by a search

engine such as Google.com or Yahoo.com is an advertisement. For

example, "www.ibm.com", and each page, or any part viewed by a

consumer, is an advertisement for IBM corporation. "IBM" as a keyword,
linked or unlinked to IBM.com is also an advertisement for IBM
corporation. The Examiner maintains that a link to an advertiser's web site
can be reasonably broadly interpreted as an advertisement, and that the
web ranking system of Skinner displays keyword advertisement pairs.

Applicant argues regarding claim 5 that " Skinner does not use the
content of an advertiser web site as criteria for maintaining the database.
Moreover, Skinner does not disclose that maintenance of the database
includes automatically generating search terms for the database based on
the content of an advertiser web site ".The Examiner disagrees. The
cited section of Paine discloses expanding the initial plurality of candidate
keywords based at least in part on the at least one candidate
advertisement. Therefore, Examiner believes the combined references
are still a reasonable teaching of the claimed invention in this regard, and
the 103 rejection still stands.

Applicant argues regarding claim 6 that " Skinner does not use the
content of a candidate advertisement for subsequent placement in search
results lists as criteria for maintaining the database. Moreover, Skinner
does not disclose that maintenance of the database includes automatically

generating search terms for the database based on the content of a

candidate advertisement for subsequent placement in search results lists.

The Examiner disagrees . The cited section of Paine discloses expanding

the initial plurality of candidate keywords based at least in part on the at

least one candidate advertisement. Therefore, Examiner believes the

combined references are still a reasonable teaching of the claimed

invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 8 that " Skinner does not estimate the

click-through rate for a candidate advertisement or a candidate keyword,

much less an advertisement-keyword pair. Moreover, Skinner does not

place a candidate advertisement in a search results list on a trial basis"

The Examiner disagrees. The cited section of Skinner is believed   is

believed to teach this element , by disclosing the click-through rates

calculated by day month, or year, broadly reasonably interpreted to be a

trial, and not permanent.   If the ROAI is bad , the advertisement-keyword

pair is removed, its trial is over. Therefore, Examiner believes the

combined references are still a reasonable teaching of the claimed

invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 9 that ", Skinner does not estimate the

click-through rate for a candidate advertisement or a candidate keyword,

much less estimating a click-through rate based on the relevance of a

candidate advertisement to a candidate keyword for an advertisement-

keyword pair. The Examiner disagrees. The cited section of Skinner is

believed   is believed to teach this element , by disclosing the tracked

click-through rates, and an acceptable number of user actions, a measure

of relevance of the advertisement. Therefore, Examiner believes the

combined references are still a reasonable teaching of the claimed

invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 20 that "Skinner does not consider an

experience level in a user in conjunction with calculating a bid ". The

Examiner disagrees. The cited section of Skinner is believed   is believed

to teach this element , by disclosing the tracked click-through rates, and

prior visits and purchases from advertiser web site, thus the bids and

rankings of the keywords are based on the level of the user's experience.

Therefore, Examiner believes the combined references are still a

reasonable teaching of the claimed invention in this regard, and the 103

rejection still stands.

Applicant argues regarding claims 25 and 39 that " Skinner does not sort

bids by a product of the click-through rate and ROAI or place insertions

based on such sorted bids. The Examiner disagrees. The cited section

of Skinner is believed   is believed to teach this element , by disclosing

the bids are sorted by the maximum bid for each keyword advertisement

which equals a product of the click-through rate and ROAI, as Skinner

refers to as ROAS in (para. 44), amount of sales dived by cost, which is

equal to the product of click-through rate and ROAI. Therefore, Examiner

believes the combined references are still a reasonable teaching of the

claimed invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 40 that "the Office Action does not cite

any portion of Skinner or any other reference of element f) of claim 40".

The Examiner disagrees. The Examiner believes this Office Action

properly cites the references of Skinner and Paine   for a 103A rejection

over every element of claim 40. Therefore, the Examiner respectfully finds

the Applicant's argument unpersuasive.

Applicant further argues regarding claim 40 that " the Office Action does

not cite any portion of Skinner or any other reference for disclosure of the

"publisher web page" , "candidate publisher web page", or the

"advertisement-publisher web page limitations of claim 40. The Examiner

disagrees. The cited section of Skinner is believed   is believed to teach

this element , by disclosing

search terms related to an advertiser's service or product and linked to a web site, for placement in multiple search engine web pages. Therefore, the Examiner respectfully finds the Applicant's argument unpersuasive.

Applicant further argues regarding claim 40 that "paragraph 82 of the specification defines a "publisher page" as a "unique web page" and explains that a "keyword" is different from a "whole web page". The Examiner disagrees. The language from the specification: "a keyword can be substituted with a "publisher-page" in the algorithm pairing keywords with advertisements, where the "publisher-page" is a unique web page" and " , because a keyword is different from a whole web page " isn't appropriate to define the terms. This paragraph does not qualify as the "clear definition" required by MPEP § 2111.01: The specification does not establish the metes and bounds of the term "publisher page" and "keyword". A clear definition must unambiguously establish what is and what is not included. A clear definition is indicated by a section labeled definitions, or by the use of phrases such as "by xxx we mean"; "xxx is defined as"; or "xxx includes, … but does not include …". The language "can be substituted" and "because" is not appropriate to define the terms. The examiner does agree that a keyword is different from a whole web page, however, and Skinner discloses a keyword, linked to a web page,

as the keyword "IBM" in a Google or Yahoo! search engine list of

keywords, links to the IBM.com web page.

Applicant further argues regarding claim 40 that " Skinner does not

disclose how bids for auctioned positions in a "publisher web page" may

be placed by advertisers. Moreover, Skinner does not disclose selecting

candidate publisher web pages, calculating bids associated with candidate

publisher web pages, or submitting bids associated with the candidate

publisher web pages as recited, for example, in elements b), f), and g) of

claim 40. The Examiner disagrees. The cited section of Skinner is

believed is believed to teach this element , by disclosing calculating bids

of placement of search terms related to an advertiser's service or product

and linked to a web site, for placement in multiple search engine web

pages. Therefore, the Examiner respectfully finds the Applicant's

argument unpersuasive.

Applicant argues regarding claim 40 element f) that " the Skinner

process does not consider an actual advertisement to be placed in the

publisher web page as a variable in calculating a bid during the bidding

process. . The cited section of Skinner is believe to anticipate the claim

language of element f), f) calculating an optimized bid for each

advertisement-publisher web page pair created in c) based at least in part

on the corresponding ROAI calculated in e), by disclosing a calculated

max bid using ROAI, for placement of search terms related to an

advertiser's service or product and linked to a web site, for placement in

multiple search engine web pages. Therefore, the Examiner respectfully

finds the Applicant's argument unpersuasive.

Applicant argues regarding claim 42 that "Skinner is clear error on any

one of at least three grounds because Skinner does not disclose t the

features claimed in elements a), d), and e). The Examiner disagrees. The

Examiner believes this Office Action properly cites the references of

Skinner and Paine   for a 103A rejection over every element of claim 42.

Therefore, the Examiner respectfully finds the Applicant's argument

unpersuasive.

Applicant argues regarding claim 42 a) that "the Skinner process does

not consider an actual advertisement to be placed in the search results list

as part of the bidding process. " The Examiner disagrees. The cited

section of Skinner is believed   is believed to teach this element by

disclosing calculating bids of placement of search terms related to an

advertiser's service or product and linked to a web site, for placement in

multiple search engine web pages, which are actual advertisements.

Therefore, the Examiner respectfully finds the Applicant's argument

unpersuasive.

Applicant argues regarding claim 42 d) that " , the Skinner process does

not consider an actual advertisement to be placed in the search results list

as a variable in calculating a bid during the bidding process". The

Examiner disagrees. The cited section of Skinner is believe to anticipate

the claim language of element d), d) calculating an optimized bid for each

advertisement-keyword pair created in c) based at least in part on the one

or more optimized keywords selected in b),), by disclosing a calculated

max bid using ROAI, for placement of search terms related to an

advertiser's service or product and linked to a web site, for placement in

multiple search engine web pages. Therefore, the Examiner respectfully

finds the Applicant's argument unpersuasive.

Applicant argues regarding claim 42 e) that " the Skinner process does

not consider the actual advertisement to be placed in the search results

list as part of the bidding process. Thus the bids submitted in Skinner are

not for an advertisement keyword pair". The Examiner disagrees. The

cited section of Skinner is believed is believed to teach this element by

disclosing calculating bids of placement of search terms related to an

advertiser's service or product and linked to a web site, for placement in

multiple search engine web pages, which are advertisement keyword pairs. Therefore, the Examiner respectfully finds the Applicant's argument unpersuasive.

Applicant argues regarding claim 44 that " Skinner does not use the content of an advertiser web site as criteria for maintaining the database, Moreover, Skinner does not disclose that advertisements are stored in the database or selected based on information maintained in the database". The Examiner disagrees. The cited section of Paine discloses using content of an advertiser web site to select keywords for bidding. . Therefore, Examiner believes the combined references are still a reasonable teaching of the claimed invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 50 that "Skinner does not disclose collecting information from a bidding service provider". The Examiner disagrees. The cited section of Skinner is believed is believed to teach this element by disclosing calculating bids of placement of search terms related to an advertiser's service or product and linked to a web site, for placement in for placement in multiple search engine web pages. The system of Skinner acts as a bidding service provider, providing the service

of optimizing bids. Therefore, the Examiner respectfully finds the

Applicant's argument unpersuasive.

Applicant argues regarding claim 57 element v) that " the Office Action

does not cite any portion of Skinner or any other reference for disclosure

of element v) of claim 57. The Examiner disagrees. Claim 57 element v)

is rejected under the rejection for claim 1 element g). . Therefore, the

Examiner respectfully finds the Applicant's argument unpersuasive.

Applicant argues regarding claim 57 element i) that " , the Skinner

process does not consider an actual advertisement to be placed in the

search results list as part of the bidding process". The Examiner

disagrees. The cited section of Skinner is believed to teach these

elements, by disclosing an automated web ranking system (para 37),

selecting, creating, and optimizing bids of advertisement-keyword pairs in

search results lists.   Webster's Dictionary defines advertisement as "a

public notice, so that each link to a page of a company's web site, or even

part of a page, could be reasonably interpreted to be an advertisement.

Each keyword displayed by a search engine such as Google.com or

Yahoo.com is an advertisement. For example, "www.ibm.com", and each

page, or any part viewed by a consumer, is an advertisement for IBM

corporation. "IBM" as a keyword, linked or unlinked to IBM.com is also an

advertisement for IBM corporation. The Examiner maintains that a link to an advertiser's web site can be reasonably broadly interpreted as an advertisement, and that the web ranking system of Skinner displays keyword advertisement pairs.

Applicant argues regarding claim 57 element iii) that " Skinner does not use any advertisement selected for placement in search results lists as criteria for maintaining the database. Moreover, Skinner does not disclose that maintenance of the database includes expanding the search terms in the database. Clearly, the Skinner process does not consider an actual advertisement to be placed in the search results list in order to expand candidate keywords used in the bidding process". The Examiner disagrees. The cited section of Paine discloses expanding the initial plurality of candidate keywords based at least in part on the at least one candidate advertisement. Therefore, Examiner believes the combined references are still a reasonable teaching of the claimed invention in this regard, and the 103 rejection still stands.

Applicant argues regarding claim 57 element v) that " the Skinner process does not consider an actual advertisement to be placed in the search results list as a variable in calculating a bid during the bidding process". ". The Examiner disagrees. The cited section of Skinner is believed to

anticipate the claim language of calculating an optimized bid for each

advertisement-keyword pair created in d) based at least in part on the

corresponding ROAI calculated in f). Skinner's optimized bids consider

the results of consumers clicking on the advertisement link and the ROAI

in the optimization logic. Therefore, Examiner believes the combined

references are still a reasonable teaching of the claimed invention in this

regard, and the 103 rejection still stands.

Applicant argues regarding claim 57 element v) that "The Examiner

disagrees. The cited section of Skinner is believed to teach these

elements, by disclosing an automated web ranking system (para 37),

selecting, creating, and optimizing bids of advertisement-keyword pairs in

search results lists. Webster's Dictionary defines advertisement as "a

public notice, so that each link to a page of a company's web site, or even

part of a page, could be reasonably interpreted to be an advertisement.

Each keyword displayed by a search engine such as Google.com or

Yahoo.com is an advertisement. For example, "www.ibm.com", and each

page, or any part viewed by a consumer, is an advertisement for IBM

corporation. "IBM" as a keyword, linked or unlinked to IBM.com is also an

advertisement for IBM corporation. The Examiner maintains that a link to

an advertiser's web site can be reasonably broadly interpreted as an

advertisement, and that the web ranking system of Skinner displays

keyword advertisement pairs.

Applicant argues regarding claim 59 that "Skinner nor Paine disclose

using a competition assessment agent to perform the competition

assessment as recited in claim 59. The Examiner disagrees. The cited

section of Paine discloses assessing competitors web sites for keywords.

Therefore, Examiner believes the combined references are still a

reasonable teaching of the claimed invention in this regard, and the 103

rejection still stands.

Applicant argues regarding claim 60 that "Phelan does not disclose

calculating the effectiveness of competitor keyword advertising or a

competitor ROAI for a competitor keyword as recited in claim 60. The

Examiner disagrees. The cited section of Skinner discloses calculating

a return on advertising investment (ROAI) for each advertisement-keyword

pair keyword pair. The cited section of Phelan discloses calculating

and analyzing a customer's ROAI against that of competition, giving

examples of using price/promotion, sales profits, and advertising dollars.

Therefore, Examiner believes the combined references are still a

reasonable teaching of the claimed invention in this regard, and the 103

rejection still stands.

Conclusion

Any inquiry concerning this communication or earlier communications from
the examiner should be directed to DANIEL SORKOWITZ whose
telephone number is (571)270-5206. The examiner can normally be
reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Eric Stamber can be reached on 570-272-6724.
The fax phone number for the organization where this application or
proceeding is assigned is 571-273-8300.

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1000.

/D.M.S./
Examiner, Art Unit 3622

/Michael Bekerman/
Primary Examiner, Art Unit 3622